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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,149	04/30/2001	Christian Schwabe	CONN-015CON	6580

24353 7590 12/16/2003

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EXAMINER

GUPTA, ANISH

ART UNIT	PAPER NUMBER
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1654

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DATE MAILED: 12/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/846,149

Applicant(s)

SCHWABE ET AL.

Examiner

Anish Gupta

Art Unit

1654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-13 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Election/Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-3, 7-9 and 13 drawn to relaxin like factor peptide, classified in class 514, subclass 12.
- II. Claim 1, 4-6, drawn to method of using relaxin like factor in a treatment of a condition, classified in class 514, subclass 12.
- III. Claims 1 and 10, drawn to radiolabeled relaxin like factor, classified in class 424, subclass 1.11.
- IV. Claims 1, 11-12, drawn to a method of using relaxin like factor in a binding assay, classified in class 436, subclass 501.

The inventions are distinct, each from the other because of the following reasons:

As a note, claim 1 is generic to all of the groups. Accordingly it has been placed in all of the groups and will be examined to the extent that it reads on the elected group.

Group I and Group III are distinct from one another in that they are structurally distinct. Group I does not mention the presence of a radiolabel. Thus a radiolabeled compound would not render obvious the peptide of Group I. Similarly a non-radiolabeled peptide would not render obvious the compound of Group II. Thus they are structurally distinct from one another.

Group I and Group II or Group II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as

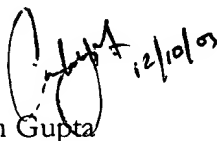
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claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the disorders claimed can be treated using a structurally distinct product in relaxin. Similarly, a binding assay can utilize numerous different product such as relaxin or other biologically active peptides.

Group II and Group IV are distinct in that they are different methods. The method of Group II involves the administration of the active peptide to a subject for in-vivo effects. However, the method of Group IV involves only iv-vitro methodology. The end-points, the method steps, and the compositions involved are all different in both methods.

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anish Gupta whose telephone number is (703) 308-4001. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback, can normally be reached on (703)306-3220. The fax phone number of this group is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

 12/10/09
Anish Gupta

Patent Examiner